

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5467 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CHHAGANLAL MOHANLAL DALAL

Versus

SHIVANAN SUKHABHI YADAV

Appearance:

MR VM TRIVEDI for Petitioner
None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/08/97

ORAL JUDGEMENT

1. This petition is directed against the orders of the three authorities below under which the respondent was held to be an agricultural labourer.
2. A suit has been filed by the petitioner against the respondent for recovery of the suit premises in which the respondent raised an issue that he is an agricultural labourer on which the Civil Court after framing the

issue, referred the matter for decision to the Agricultural Tribunal. All the three authorities have concurrently held in this case that the respondent is an agricultural labourer.

3. Challenging the orders of the authorities below, the counsel for the petitioner contended that the burden of proof lies on the respondent to show that he is an agricultural labourer and the authorities have proceeded as if this burden lies on the petitioner, and as such, a serious error is committed by them in deciding the matter.

4. However, I do not find any merits in this contention. In this case both the parties have gone on trial on a particular issue. They were knowing very well the substance of the matter and the point on which they have to produce their evidence. After both the parties have produced their evidence then the burden of proof loses all its substance and the matter has to be decided by the authorities on the basis of appreciation of evidence. All the three authorities have concurrently held that the respondent is an agricultural labourer and after reading the order of the Tribunal, I do not find any perversity therein which calls for interference of this Court sitting under Article 227 of the Constitution.

5. The counsel for the petitioner contended that the view taken by the authorities below in this matter on the basis of evidence is erroneous.

6. Even if it is taken that on the basis of evidence which has been produced by the parties, there may be another view possible, still it cannot be said to be a ground for interference of this Court sitting under Article 227 of the Constitution. It is a simple case of appreciation of evidence of both the parties and on making thereof the authorities have concurrently held against the petitioner. This Court sitting under Article 227 of the Constitution can interfere in the orders of the authorities below where it finds that the order is perverse or is based on no evidence or the authorities have misdirected themselves in reading of the evidence. It is not the case of any misreading of evidence also or where any important piece of evidence has not been taken into consideration.

7. Taking into consideration the totality of the facts of this case, I do not find it to be a case where this Court should interfere in the matter under Article 227 of the Constitution.

8. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated.

zgs/-